

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

PROSOMNUS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10972 (JTD)

(Jointly Administered)

Re: Docket No. 88

**CERTIFICATION OF COUNSEL REGARDING ORDER (I) APPROVING
DISCLOSURE STATEMENT AND FORM AND MANNER OF NOTICE OF
DISCLOSURE STATEMENT HEARING, (II) ESTABLISHING SOLICITATION AND
VOTING PROCEDURES, (III) SCHEDULING CONFIRMATION HEARING,
(IV) ESTABLISHING NOTICE AND OBJECTION PROCEDURES FOR
CONFIRMATION OF PLAN, AND (V) GRANTING RELATED RELIEF**

I, Shanti M. Katona, Esq., of Polsinelli PC, counsel to the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), hereby certify and state as follows:

1. On May 24, 2024, the Debtors filed the (i) *Joint Chapter 11 Plan of Reorganization of ProSomnus, Inc. and its Debtor Affiliates* [Docket No. 86] (the “**Plan**”); (ii) *Disclosure Statement for Joint Chapter 11 Plan of Reorganization of ProSomnus, Inc. and its Debtor Affiliates* [Docket No. 87] (the “**Disclosure Statement**”); and (iii) *Motion of Debtors for Entry of Order (I) Approving Disclosure Statement and Form and Manner of Notice of Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling Confirmation Hearing, (IV) Establishing Notice and Objection Procedures for Confirmation of*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: ProSomnus, Inc. (8216), ProSomnus Holdings, Inc. (3855), and ProSomnus Sleep Technologies, Inc. (0766). The location of the Debtors’ principal place of business and the Debtors’ mailing address is 5675 Gibraltar Dr., Pleasanton, California 94588.

Plan, and (V) Granting Related Relief [Docket No. 88] (the “**Solicitation Procedures Motion**”)² with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

2. On June 18, 2024, the United States Trustee filed its *Objection to Debtors’ Motion for Entry of Order (I) Approving Disclosure Statement and Form and Manner of Notice of Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling Confirmation Hearing, (IV) Establishing Notice and Objection Procedures for Confirmation of Plan, and (V) Granting Related Relief* [Docket No. 164] (the “**UST Objection**”) with the Court. No other objections or responses to the Solicitation Procedures Motion were received.

3. On June 24, 2024, the Debtors filed (i) the *Amended Joint Chapter 11 Plan of Reorganization of ProSomnus, Inc. and its Debtor Affiliates* [Docket No. 177] (the “**Amended Plan**”); (ii) the *Disclosure Statement for Amended Joint Chapter 11 Plan of Reorganization of ProSomnus, Inc. and its Debtor Affiliates* [Docket No. 179] (the “**Amended Disclosure Statement**”); (iii) a revised proposed form of order approving the Solicitation Procedures Motion [Docket No. 181] (the “**Revised Order**”) and (iv) a reply in support of the Solicitation Procedures Motion [Docket No. 182] (the “**Debtors’ Reply**”).

4. On June 26, 2024, a hearing (the “**Hearing**”) was held before the Court on the Solicitation Procedures Motion, the UST Objection, and the Debtors’ Reply. At the Hearing, the Court ordered that the Debtors make certain limited changes to certain definitions contained in the Amended Plan.

5. Following the Hearing, the Debtors incorporated the Court’s ruling into the Amended Plan, and filed a solicitation version of the Amended Plan at Docket No. 192 (the

² Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Solicitation Procedures Motion.

“**Solicitation Plan**”). The Debtors also made certain conforming edits to definitions contained in the exhibits attached to the Revised Order.

6. Attached hereto as Exhibit A is a redline of the Solicitation Plan against the Amended Plan. Given the discreet nature of these changes, the Debtors have only attached the changed pages to the Amended Plan. The Court’s ruling at the Hearing did not directly implicate the Amended Disclosure Statement; however, for the convenience of the Court and all parties in interest, the Debtors have filed a solicitation version of the Amended Disclosure Statement at Docket No. 193.

7. Attached hereto as Exhibit B is a redline of the exhibits to the Revised Order against the exhibits attached to the Further Revised Order (as defined below).

8. Attached hereto as Exhibit C is a further revised proposed form of order approving the Solicitation Procedures Motion that incorporates the Court’s ruling made at the Hearing (the “**Further Revised Order**”), including all exhibits thereto.

[Continued on next page]

9. Accordingly, the Debtors respectfully request that the Court enter the Further Revised Order, attached hereto as Exhibit C, at the earliest convenience of the Court.

Dated: June 26, 2024
Wilmington, Delaware

POLSINELLI PC

/s/ Shanti M. Katona

Shanti M. Katona (Del. Bar No. 5352)
Katherine M. Devanney (Del. Bar No. 6356)
Michael V. DiPietro (Del. Bar No. 6781)
222 Delaware Avenue, Suite 1101
Wilmington, Delaware 19801
Telephone: (302) 252-0920
Facsimile: (302) 252-0921
skatona@polsinelli.com
kdevanney@polsinelli.com
mdipietro@polsinelli.com

-and-

Mark B. Joachim (Admitted Pro Hac Vice)
1401 Eye Street, N.W., Suite 800
Washington, D.C. 20005
Telephone: (202) 783-3300
Facsimile: (202) 783-3535
mjoachim@polsinelli.com

*Counsel to the Debtors and
Debtors in Possession*